

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: County Assessors, PTABOA Members, and County Auditors
FROM: Barry Wood, Assessment Division Director *BJW*
RE: Supreme Court Exemption Ruling
DATE: January 4, 2011

The purpose of this memorandum is to inform County Assessors, Property Tax Assessment Board of Appeals (PTABOA) members, and County Auditors of a recent Indiana Supreme Court ruling on an exemption case. It is no substitute for review and application of the case itself but is intended to provide some guidance.

In August 2009, the Department of Local Government Finance (Department) disseminated a memo (see [http://www.in.gov/dlgf/files/090806 - Wood Memo - 2009 Exemption and July 24 Indiana Tax Court Ruling.pdf](http://www.in.gov/dlgf/files/090806_-_Wood_Memo_-_2009_Exemption_and_July_24_Indiana_Tax_Court_Ruling.pdf)) regarding the tax exemption decision by the Indiana Tax Court in Oaken Bucket Partners, LLC, v. Hamilton Cnty. Prop. Tax Assessment Bd. of Appeals. On December 15, 2010, the Indiana Supreme Court overturned that Tax Court decision (see <http://www.in.gov/judiciary/opinions/pdf/12151001rdr.pdf>). The Supreme Court held that although Oaken Bucket leased space to Heartland (church) for charitable and religious purposes, Oaken Bucket failed to demonstrate it owned the property for such purposes because Oaken Bucket did not possess an exempt purpose independent of Heartland's charitable and religious purposes. In the August 2009 memo, the Department indicated that the Tax Court decision could be referenced; however, the Supreme Court decision takes precedence, and should now be referenced.

Below are key general holdings of the case that counties should take into consideration when reviewing property tax exemption applications filed by landlords who rent to religious or charitable organizations.

1. In order to qualify for an exemption, a landlord must demonstrate that its property is owned for exempt purposes, occupied for exempt purposes, and predominately used for exempt purposes. When unity of ownership, occupancy, and use is lacking, both the landlord and tenant must demonstrate that they possess their own exempt purpose.
2. Charging below market rent for part of a building rented to a church or other religious or charitable organization is insufficient, standing alone, to justify a religious or charitable purpose property tax exemption.
3. Although the fact that a landlord charges below market rent to a charitable or religious organization may demonstrate some indicia of the entity's beneficent motives, more is required to show the entity has its own exempt purpose.

In other words charging below market rent to an exempt entity, does not, without more, establish an exempt purpose on the part of the property owner.

If you have any questions, please contact your Assessment Division Field Representative or Assessment Division Director, Barry Wood at Bwood@dlgf.in.gov or 317.232.3762.